

STEWART WEINBERG
DAVID A. ROSENFELD
WILLIAM A. SOKOL
VINCENT A. HARRINGTON, JR.
W. DANIEL BOONE
BLYTHE MICKELSON
BARRY E. HINKLE
JAMES RUTKOWSKI
SANDRA RAE BENSON
CHRISTIAN L. RAISNER
JAMES J. WESSER
THEODORE FRANKLIN
ANTONIO RUIZ
MATTHEW J. GAUGER
ASHLEY K. IKEDA **
LINDA BALDWIN JONES
PATRICIA A. DAVIS
ALAN G. CROWLEY
J. FELIX DE LA TORRE
KRISTINA L. HILLMAN ***
ANDREA LAJACONA
EMILY P. RICH

WEINBERG, ROGER & ROSENFELD

A PROFESSIONAL CORPORATION

1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-1091
TELEPHONE 510.337.1001
FAX 510.337.1023

PUBLIC EMPLOYMENT
RELATIONS BOARD
HEADQUARTERS OFFICE
2007 APR -6 AM 9:31

LORI K. AQUINO **
ANNE I. YEN
NICOLE M. PHILLIPS
BROOKE D. PIERMAN ***
BRUCE A. HARLAND
CONCEPCION E. LOZANO-BATISTA
CAREN P. SENCER
LINELLE S. MOGADO
ANUARI CHAWLA
KRISTINA M. ZINNEN

PATRICIA M. GATES, Of Counsel
ROBERTA D. PERKINS, Of Counsel
JOHN PLOTZ, Of Counsel

* Also admitted in Arizona
** Admitted in Hawaii
*** Also admitted in Nevada

April 5, 2007

VIA OVERNIGHT MAIL

Tami R. Bogert, General Counsel
California Public Employment Relations Board
1031 - 18th Street
Sacramento, CA 95814-4174

Re: Proposed Regulation Changes

Dear Ms. Bogert:

I am writing with regard to the announcement of proposed regulation changes issued by the Board on or about February 19, 2007. I am writing on behalf of a number of our Union clients who represent public employees under the MMBA, and EERA.

We adopt the comments made by the SEIU State Council to the extent not inconsistent with these comments. If, however, the Board should nonetheless determine to go forward with these regulatory changes, we ask you to consider the following additional comments.

I will primarily address the proposed regulation changes affecting proof of support documentation, and their revocation.

Our clients are concerned that Section 32700(a)(1) (and the related proposed regulations) which requires that a proof of support seeking recognition of an exclusive representative must "also clearly demonstrate that the employee understands that an election may not be conducted," could be construed to require only a "single purpose" document. In other words, that if the Union seeks recognition without an election, it must use one kind of employee support document, and if it seeks an election it must use a different kind of document. The fact is that organizing campaigns have a life of their own, and a campaign which starts out as an intent to achieve recognition through a card check might result in a petition for an election; obviously, the opposite is likewise true. To account for this reality, I would suggest that the regulations contain language such as the following:

"Any form of proof of employee support which contains language clearly demonstrating that the employee understands that an election

LOS ANGELES OFFICE
3435 Wilshire Boulevard, Suite 620
Los Angeles, CA 90010-1907
TEL 213.380.2344 FAX 213.381.1088

SACRAMENTO OFFICE
428 J Street, Suite 520
Sacramento, CA 95814-2341
TEL 916.443.6600 FAX 916.442.0244

HONOLULU OFFICE
1099 Alakea Street, Suite 1602
Honolulu, HI 96813-4500
TEL 808.528.8880 FAX 808.528.8881

may not be conducted, may be utilized to obtain recognition either through an election, or by a check of majority support."

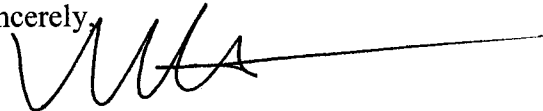
Regulation Section 32700(c) and the related proposed regulations should also be amended in order to expressly include within the one-year "validity" period, proof of support to obtain recognition without an election. We would propose language along the following lines to clarify this section:

"To . . . qualify for appearance on the ballot in an election, or to obtain recognition without an election,"

Proposed Regulation Section 32705 (and the related proposed regulations) concerned with "revocation of proof support" requires, in subsection (b)(2) that the revocation be "furnished to the PERB by the employee." Is this intended to prevent an organization from securing such "individual cards or letters" and delivering them to the PERB as agents of the individual employees? Provided that there are in fact individualized, signed, dated revocation documents received by the PERB within the relevant time frame, we fail to see why it makes any difference how the documents arrived, or by whom they were delivered.

In subsection (b)(4), it is stated that to be timely such a revocation must be filed with the PERB within "15 workdays of the date proof of support is filed with the Board" in the case of a unit modification petition. Unlike the situation of a petition for recognition or decertification where there is a posting period, how would employees know when the 15-day period begins to run in the case of a unit modification petition? This issue is not apparently addressed in the proposed regulations. Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'V. Harrington', followed by a long horizontal line extending to the right.

Vincent A. Harrington, Jr.

VAH/map
opeiu 3 afl-cio(1)
1/452529